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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,603	01/09/2002	Gary A. Kasper	71189-1383	7005

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EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 12/31/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

13-6

Office Action Summary	Application No. 10/042,603	Applicant(s) KASPER ET AL.	
	Examiner Theresa T. Snider	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 23-47 and 52-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 48-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2-3</u> . | 6) <input type="checkbox"/> Other: |

Art Unit: 1744

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in Paper No. 5 is acknowledged. The traversal is on the ground(s) that all groups contain a liquid protectant composition. This is not found persuasive because the Groups are not structurally limited to the sole application of a protectant composition. The Groups could be used to apply different fluids, simply by refilling the tank.

The requirement is still deemed proper and is therefore made FINAL.

2. Upon review of the claims, Examiner decided to regroup the claims as follows, with the reasons for restrictions being the same as that in the Restriction of paper number 4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22 and 48-51, drawn to a portable surface cleaning apparatus, classified in class 15, subclass 322.
- II. Claims 23-47, drawn to a spray applicator, classified in class 239, subclass 146.
- III. Claims 52-58, drawn to a method of applying a method of applying a solution to a surface, classified in class 427, subclass 421.

3. During a telephone conversation with John E. McGarry on 12/16/2002 a provisional election was re-made with traverse to prosecute the invention of Group I, claims 1-22 and 48-51. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-47 and 52-58 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 302(page 13, line 17), 222(page 14, line 1) 400(page 16, line 3). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "72" has been used to designate both connector(page 20, line 15) and fitting(page 20, line 16). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

Exemplary of such:

Page 13, line 29, 'a' should be deleted.

Page 16, line 23, 'an' and 'a' should be deleted;

Line 24, 'a' should be deleted;

Line 29, 'a' should be deleted.

Appropriate correction is required.

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-22 and 48-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

✓
Claim 1, line 10, 'liquid' should be inserted after 'first' (both occurrences);

✓
Line 12, it is unclear as to whether 'a surface' is in addition to that of line 7 or one in the same;

✓
Line 14, 'liquid' should be inserted after 'second' (both occurrences);

✓
Line 15, 'fluid' (second occurrence) should be replaced with 'liquid';

✓
Line 22, 'chamber' should be replaced with 'tank';

✓
Line 24, is the 'open end' an end of the hose?;

→ Lines 28, 31 and 33 'chamber' should be replaced with 'tank';

→ Line 36, it is unclear as to whether 'a surface' is in addition to that of line 7 or one in the same;

✓
Claims 2-22, line 1, 'A' should be replaced with 'The'.

✓
Claims 3-4, 11 and 18-22 are directed to further limitations of elements found in the preamble of the Jepson claim. Is Applicant alleging these to limitations to be considered 'prior art'?

✓ ✓
Claims 10 and 17, line 2, 'mechanism' should be inserted after 'connect'.

Art Unit: 1744

✓
Claim 48, line 10, 'liquid' should be inserted before 'dispenser' (first occurrence);

~ Line 20, 'chamber' should be replaced with 'tank';

✓
Line 22, 'fluid' should be replaced with 'liquid'.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1744

13. Claims 1-4, 11 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted State of the Prior Art, as set forth in the preamble of the Jepson claim(hereafter ASPA) in view of Frohbieter.

ASPA discloses a similar device except for a fluid reservoir mounted on the second dispenser.

Frohbieter discloses a fluid reservoir mounted to a second liquid dispenser for dispensing onto a surface (fig. 12, #96).

With respect to claims 1-2, Frohbieter discloses an aspirator acting as a fluid pump mounted to the second liquid dispenser for drawing fluid from the reservoir onto the surface (col. 8, lines 30-32).

With respect to claims 3-4, 11 and 18-22, it is believed, as written, ASPA discloses the claimed limitations. Please see above 112 rejection for clarification.

14. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Frohbieter as applied to claim 1 above, and further in view of Kasen et al.('472).

ASPA in view of Frohbieter discloses a similar apparatus however fail to disclose a liquid other than a cleaning liquid within the reservoir.

Kasen et al. ('472) discloses a surface cleaning apparatus whose supply tank contains a liquid other than a cleaning liquid (col. 19, lines 18-27). It would have been obvious to one of ordinary skill in the art to determine the most appropriate solution to place in the supply tank of ASPA in view of Frohbieter, as disclosed in Kasen et al.('472), to allow for the desired treatment of a surface.

Art Unit: 1744

15. Claims 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasen et al.('472).

Kasen et al.('472) discloses a base housing (fig. 1, #14).

Kasen et al.('472) discloses an upright handle pivotally mounted to the housing (fig. 1, #18).

Kasen et al.('472) discloses a liquid supply tank (fig. 1, #20). Kasen et al. ('472) discloses the supply tank containing a liquid other than a cleaning liquid (col. 19, lines 18-27). It would have been obvious to one of ordinary skill in the art to determine the most appropriate solution to place in the supply tank of Kasen et al.('472) to allow for the desired treatment of a surface.

Kasen et al.('472) discloses a liquid supply conduit connected to the tank and a dispenser with a fluid delivery system for delivering liquid from one to the other (col. 8, lines 58-67).

Kasen et al.('472) discloses a recovery tank mounted to the housing (fig. 1, #30).

Kasen et al.('472) discloses a suction nozzle associated with the housing (fig. 1, #318, 52).

Kasen et al.('472) discloses a working air conduit between the recovery tank and the nozzle and in fluid communication with the recovery tank (col. 13, lines 60-65)

With respect to claims 49-51, Kasen et al. ('472) discloses the supply tank containing a liquid other than a cleaning liquid (col. 19, lines 18-27). It would have been obvious to one of ordinary skill in the art to determine the most appropriate solution to place in the supply tank of Kasen et al.('472) to allow for the desired treatment of a surface.

Art Unit: 1744

Allowable Subject Matter

16. Claims 5-10 and 12-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: The prior art discloses a surface cleaning apparatus as set forth in the preamble of Jepson claim 1 having a fluid reservoir and fluid reservoir pump mounted to the second liquid dispenser, wherein the pump is an aspirator and the second liquid dispenser has a vent opening HOWEVER fails to disclose or fairly suggest the second liquid dispenser and reservoir having a quick connect mechanism for removably mounting the reservoir to the second liquid dispenser.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (703) 305-0554. The examiner can normally be reached on Monday-Wednesday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 879-9310 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

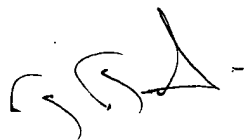
Application/Control Number: 10/042,603

Page 9

Art Unit: 1744

TTS

December 30, 2002

A handwritten signature in black ink, appearing to read 'TTS', with a stylized flourish extending to the right.

Theresa T. Snider
Examiner
Art Unit 1744